

REMARKS/ARGUMENTS

Claims 1-21 are pending in the present application. The Examiner has allowed claims 13, 14, 20, and 21. The Examiner has rejected claims 1, 4, 6-10, 15, 18, and 19. The Examiner has objected to claims 2, 3, 5, 11, 12, 16, and 17. Applicant has added new claim 22. Applicant respectfully requests reconsideration of pending claims 1-12, 15-19, and 22.

The Examiner has rejected claims 1, 6, 9, 10, and 15 under 35 U.S.C. § 102(a) as being anticipated by U.S. Patent No. 6,389,464 issued to Krishnamurthy et al. Regarding claim 1, Applicant respectfully disagrees. Applicant submits that the cited reference fails to disclose the claimed invention as set forth in claim 1. Therefore, Applicant submits that claim 1 is in condition for allowance.

Regarding claim 6, Applicant notes that the Examiner has changed the basis of the rejection of claim 6 since the previous non-final Office action. In the previous non-final Office action, the Examiner stated, “Referring to claim 6, Krishnamurthy et al. discloses the method of claim 1, but does not explicitly teach wherein the set of indicators further includes physical characteristics of a node....” However, the Examiner now states, “Referring to claim 6, Krishnamurthy et al. discloses the method of claim 1, wherein the set of indicators further includes physical characteristics of a node....” Applicant notes MPEP § 706.07(a), which states, “Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). Applicant submits that the newly presented rejection of claim 6 prevents the present Office action from being a final action and respectfully requests that the finality be withdrawn. Moreover, Applicant submits that claim 6 is in condition for allowance.

Regarding claim 9, Applicant respectfully disagrees. Applicant submits that the cited portions of Krishnamurthy et al. fail to anticipate the present invention as set forth in claim 9. For example, Applicant submits that col. 4, lines 1-6, of Krishnamurthy et al., as cited by the Examiner, fail to disclose “receiving a new set of indicators corresponding to a node in the network...,” “wherein the network is a communications network that includes one or more of...wireless network formats.” Applicant notes that Krishnamurthy et al.’s mention of “wireless services such as paging” is in

reference to a “further object of the present invention [Krishnamurthy et al.’s alleged invention]” and purports to refer to how users can “manage virtually any device from virtually anywhere,” not to a network wherein “a new set of indicators corresponding to a node in the network” are received. As to the Examiner’s assertions regarding Time Division Multiplexing, Frame Relay, and asynchronous transfer mode, Applicant notes that Applicant has presented arguments for the allowability of claim 1 from which claim 9 depends. Therefore, Applicant submits that claim 9 is also in condition for allowance.

Regarding claim 10, Applicant respectfully disagrees. As noted above regarding claim 1, as one example, the Examiner states, “...it is understood that the MIB files includes functional characteristics because a MIB is a SNMP compatible data structure that defines the functional groups and management objects of a unit or system....” However, Applicant cannot find such teaching in the cited reference. Instead, Krishnamurthy et al. state, in col. 2, lines 33 and 34, “The MIB is a set of managed objects or variables that can be managed.” As another example, the Examiner cites col. 4, lines 44-53, of Krishnamurthy et al. as teaching “determining functional characteristics for the node.” However, by relying on the Examiner’s assertion that “it is understood that the MIB files includes functional characteristics...,” the Examiner engages in circular reasoning, in that, if the MIB files truly were to teach “determining functional characteristics for the node,” then Krishnamurthy et al.’s alleged use of web pages allegedly containing particular functional characteristics would be rendered useless, as the MIB files would already allegedly include functional characteristics without the alleged use of web pages. Moreover, the Examiner various elements in the figures of Krishnamurthy et al. but fails to allege how the mere existence of such elements teaches “combining the set of indicators with physical characteristic information of the node to produce the set of characteristics for the node.” Thus, Applicant submits that the cited reference fails to disclose the claimed invention as set forth in claim 10. Therefore, Applicant submits that claim 10 is in condition for allowance.

Regarding claim 15, Applicant notes that the Examiner has changed the basis of the rejection of claim 6 since the previous non-final Office action. In the previous non-final Office action, the Examiner cited “Fig. 3, reference sign 12” as teaching a processing module and “Fig. 3, reference sign 68” as teaching memory. However, the Examiner now cites “CPU, col. 7, lines 14-30” as teaching a processing module and “MIB, col. 4, lines 44-50” as teaching memory. Applicant notes MPEP § 706.07(a), which states, “Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by

applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). Applicant submits that the newly presented rejection of claim 15 prevents the present Office action from being a final action and respectfully requests that the finality be withdrawn. Moreover, Applicant submits that claim 15 is in condition for allowance.

The Examiner has rejected claims 4, 7, 18, and 19 under 35 U.S.C. § 103(a) as being unpatentable over Krishnamurthy et al. in view of Rose et al. Regarding claim 4, Applicant respectfully disagrees. In the Response to Arguments, the Examiner cites pages 6 and 7 of Rose et al. as teaching “the functional support is the defining of the new MIB objects and the registering of the networking subsystems. The multiple hierarchical levels within a node are the subtrees.” However, contrary to the Examiner’s assertion, Rose et al. does not teach the “multiple hierarchical levels within a node are the subtrees,” but describes “a node under the enterprises subtree.” Thus, Applicant continues to submit that Applicant cannot identify any teaching or suggestion of “multiple hierarchical levels within a node.” Therefore, Applicant submits that claim 4 is in condition for allowance.

Regarding claim 7, Applicant respectfully disagrees. Applicant notes that Rose et al. state, on page 10, “For example, the notion of an entry in a routing table might be defined in the MIB. Such a notion corresponds to an object type; individual entries in a particular routing table which exist at some time are object instances of that object type.” Applicant notes that “an entry” or “individual entries” in a routing table do not appear to involve “determining routing paths” (plural) in a network. Moreover, Applicant submits that Rose et al. fail to disclose “wherein performing network management functions further comprises determining routing paths in the network.” For example, the mere definition of an object type in a MIB does not imply determination of object instances of that object type and, moreover, does not imply utilizing a MIB (which the Examiner appears to argue reads on a database) to determine routing paths in the network. Thus, Applicant submits that claim 7 is in condition for allowance.

Regarding claim 18, for the reasons set forth above in regard to claim 4, Applicant cannot identify any teaching or suggestion of “multiple hierarchical levels within a node.” Therefore, Applicant submits that claim 18 is in condition for allowance.

Regarding claim 19, for the reasons set forth above in regard to claim 7, Applicant submits that claim 19 is in condition for allowance.

The Examiner has rejected claim 8 under 35 U.S.C. § 103(a) as being unpatentable over Krishnamurthy et al. Regarding claim 8, Applicant respectfully disagrees. Applicant can find no description of what the “system-wide parameters” of Krishnamurthy et al. would be. Moreover, Applicant can find no disclosure in the cited portion of Krishnamurthy et al. of “...wherein performing network management functions further comprises configuring path endpoints in the network.” For example, “system-wide” typically involves every component in a system, not “...configuring path endpoints....” Moreover, while the Examiner asserts that “one skilled in the art would recognize based on the applicant that the endpoints are part of ‘every component in a system,’” Applicant respectfully disagrees and notes that the Examiner fails to cite any prior art to support the Examiner’s assertion. Applicant notes that the Examiner has failed to cite any reference to “...path endpoints...” in the prior art. Thus, Applicant submits that claim 8 is in condition for allowance.

The Examiner has rejected claim 9 under 35 U.S.C. § 112, first paragraph, alleging that the specification, while being enabling for TDM, Frame Relay, ATM and a number of wireless format, does not reasonably provide enablement for a communications network that includes one or more of Time Division Multiplexing, Frame Relay, asynchronous transfer mode, and wireless network formats. The Examiner further states that the specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims. The Examiner also states that the specification does not provide enablement for TDM and wireless network formats, Frame Relay and wireless network formats, and ATM and wireless network formats. Applicant respectfully disagrees. Applicant notes that page 3, lines 22-25, of the specification states, “Preferably, the network manager 10 and the nodes 30 and 40 are included in a communications network that may include a variety of communications formats, including, but not limited to, time division multiplexing (TDM), frame relay (FR), asynchronous transfer mode (ATM), and a number of wireless network formats.” Given the disclosure relating to such a communication network that may include such a variety of communication formats and given the nature of the functional characteristics pertaining to nodes of networks and portions thereof based on TDM, FR, ATM, and/or wireless network formats, Applicant submits that the present application provides sufficient enablement as to the subject matter of claim 9. Thus, Applicant submits that claim 9 is in condition for allowance.

The Examiner has allowed claims 13, 14, 20, and 21. The Examiner has objected to claims 2, 3, 5, 11, 12, 16, and 17 as being dependent upon a rejected base claim but states that they would be

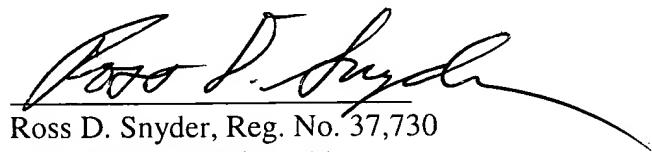
allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In conclusion, Applicant has overcome all of the Office's rejections, and early notice of allowance to this effect is earnestly solicited. If, for any reason, the Office is unable to allow the Application on the next Office Action, and believes a telephone interview would be helpful, the Examiner is respectfully requested to contact the undersigned attorney.

Respectfully submitted,

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Date



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